

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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GREGORY SERFER,

Plaintiff,

v.

AUBURN COMMUNITY HOSPITAL, AUBURN
MEMORIAL MEDICAL SERVICES, P.C., SCOTT
BERLUCCHI, and JOHN RICCIO.

Defendant.

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**APPLICATION TO
FILE DOCUMENTS
UNDER SEAL**

Case No.: 5:18-cv-01468
FJS-TWD

STEPHEN CIOTOLI, ESQ., an attorney duly licensed to practice law in the State of New York, hereby affirmatively avers, and states under penalty of perjury, as follows:

1. I am an attorney with the law firm of GATTUSO & CIOTOLI, and counsel of record for GREGORY SERFER ("Plaintiff") in the above-referenced action.

2. I respectfully submit this application to have the original and amended Verified Complaints and accompanying Exhibits "A" and "B", *see* Docket # 1 and 4, for the above-referenced action to be sealed based on the presence of information protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

3. On December 19, 2018, Plaintiff's counsel filed with this Court a Verified Complaint with Jury Demand and supporting exhibits against the above-named Defendants. *See* Docket # 1.

4. Following discussions with Defendants' counsel over the subsequent weeks, it was mutually agreed that portions of the Verified Complaint and accompanying exhibits contained potential identifiable health information protected under HIPAA relating to individuals' past, present or future physical conditions, and the provision of health care to individuals.

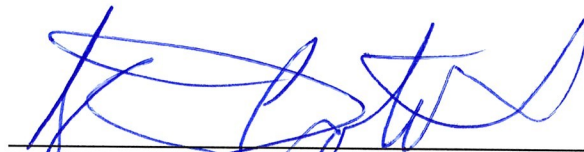
5. Specifically, Plaintiff's Verified Complaint and supporting exhibits contain patient identification numbers used by Auburn Community Hospital, descriptions of patients' diagnoses, and courses of treatment for past patients at the Auburn Community Hospital. Such information does not pertain to any individual who is a party to this case.

6. With the Defendants' knowledge and consent, Plaintiff subsequently filed with this Court amended versions of the Verified Complaint and Exhibits A – B with redactions of such identifiable information on February 14, 2019. See Docket #4.

7. To ensure that any private or identifiable health information belonging to non-party individuals are properly protected and remain confidential under HIPAA, the parties have agreed that both the original and amended Verified Complaints and accompanying exhibits under Docket # 1 and Docket # 4 for this case should be publicly sealed.

WHEREFORE, for the reasons presented herein, we respectfully request that this Court grant the proposed order to seal Plaintiff's original and amended Verified Complaints and accompanying exhibits.

Dated: February 22, 2019



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